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EXAMINER	
ANDERSON, CATHARINE L	

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/651,127  
Filing Date: August 30, 2000  
Appellant(s): BRAGD ET AL.

**MAILED  
OCT 31 2007  
GROUP 3700**

\_\_\_\_\_  
Wendi L. Weinstein  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 5 July 2007 appealing from the Office action mailed 10 April 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,518,479	GRAEF ET AL	2-2003
5,713,881	REZAI ET AL	2-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6, 11-12, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graef et al. (6,518,479) in view of Rezai et al. (5,713,881).

With respect to claims 1, 5, 14, 15, 17, and 18, Graef discloses all aspects of the claimed invention with the exception of regenerated cellulose. Graef discloses an absorbent structure, as shown in figure 3, comprising a cellulosic material which comprises two integrated layers 10 and 30, the layers being formed by placing one on top of the other before they are completely dry, as described in column 18, lines 1-33. The layers partially penetrate each other such that there is no clear partitioning between the layers, as described in column 6, lines 38-44. The layers have different pore sizes, as described in column 5, line 67 to column 6, line 3. The absorbent structure comprises cellulose, as described in column 7, line 38 to column 8, line 63.

Rezai discloses the use of regenerated rayon cellulose foam, or viscose, in an absorbent article, and further discloses compression of the cellulose, in order to provide a higher liquid wicking rate, as described in column 21, lines 18-25.

It would have been obvious to one of ordinary skill in the art at the time of invention to make the cellulose material of Graef compressed regenerated viscose cellulose, as taught by Rezai, to provide a higher liquid wicking rate.

With respect to claim 2, the foam material also contains superabsorbent materials, as disclosed in column 8, lines 64-66.

With respect to claim 3, each layer comprises a different amount of superabsorbent material, as disclosed in column 6, lines 15-17.

With respect to claim 4, the layer that has the smallest pore size, as disclosed in column 5, line 65 to column 6, line 1, has the highest amount of superabsorbent material, as disclosed in column 6, lines 15-17.

With respect to claim 6, the foam material of the layers comprises different polymers, as disclosed in column 18, lines 14-17.

With respect to claim 11, Graef discloses an absorbent article comprising a liquid permeable topsheet 16, a liquid impermeable backsheet 18, and an absorbent structure therebetween, as shown in figure 7.

With respect to claims 12 and 16, the absorbent article is a diaper, sanitary napkin, or incontinence guard, as disclosed in column 15, lines 9-13.

#### **(10) Response to Argument**

The Appellant argues that neither Graef nor Rezai suggest that the foam described in Rezai could be formed in two layers that are commingled with one another, as disclosed by Graef, since Graef deals with fibrous structures and Rezai with foam. It is noted that the regenerated cellulosic foam taught by Rezai is made of regenerated rayon fibers, as disclosed in column 21, lines 23-24. One of ordinary skill in the art would recognize that since the cellulosic foam taught by Rezai is made of fibers, the cellulosic foam could be substituted for cellulosic fibrous material with a reasonable expectation of success of forming the stratified, commingled layers of Graef. Rezai discloses in column 21, lines 19-21, that cellulosic foam provides a higher liquid wicking

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rate than cellulosic fibrous materials, thereby providing motivation to substitute the cellulosic foam for a cellulosic fibrous material.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

C. Lynne Anderson



Conferees:

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